

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscga>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : **FINAL DECISION AND ORDER**
THOMAS D. SPERA, M.D., :
RESPONDENT. : **0002563**

Division of Legal Services and Compliance Case No. 12 MED 323

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Thomas D. Spera, M.D.
6301 N. Calle Campeche
Tuscon, AZ 85750

Wisconsin Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Thomas D. Spera, M.D., (dob October 27, 1956), is licensed in the State of Wisconsin to practice medicine and surgery, having license number 43055-20, first issued on February 21, 2001, with registration current through October 31, 2013. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 6301 N. Calle Campeche, Tuscon, Arizona 85750.

2. On August 31, 2012, Respondent entered into an Agreed Order with the Texas Medical Board which subjected Respondent to various terms and conditions. The factual basis for the imposition of discipline against Respondent in Texas was a fourteen-day hospital

administrative suspension. A true and correct copy of the Texas Board's Agreed Order is attached to this document as Exhibit A. Exhibit A is incorporated into this document by reference.

3. On October 25, 2012, the Texas Medical Board terminated the Agreed Order due to Respondent's completion of all requirements.

4. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Thomas D. Spera, M.D., engaged in unprofessional conduct pursuant to Wis. Admin. Code § Med 10.02(2)(q) by having adverse action taken by another jurisdiction against his license to practice medicine and surgery.

3. As a result of the above conduct, Thomas D. Spera, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Thomas D. Spera, M.D., is REPRIMANDED.

3. Within 90 days from the date of this Order, Thomas D. Spera, M.D., shall pay COSTS of this matter in the amount of \$600.00.

4. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

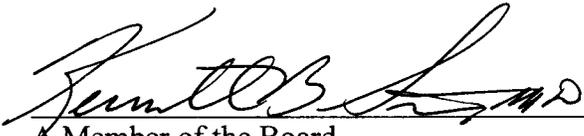
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit payment of costs as ordered, Respondent's

license (no. 43055-20) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs.

6. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board

August 14, 2013
Date

LICENSE NO. L-9497

IN THE MATTER OF
THE LICENSE OF
THOMAS SPERA, M.D.

BEFORE THE
TEXAS MEDICAL BOARD

AGREED ORDER

On the 31 day of August, 2012, came on to be heard before the Texas Medical Board ("Board"), duly in session, the matter of the license of Thomas Spera, M.D. ("Respondent").

On June 19, 2012, Respondent appeared in person, with counsel Robert Blumenfeld, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Stanley S. Wang, M.D., a member of the Board, and Lewis Benavides, a member of a District Review Committee ("Panel"). Victoria Pearce represented Board staff.

BOARD CHARGES

Board staff charged that Respondent engaged in unprofessional conduct. Specifically, it was alleged that the Respondent's medical privileges were subject to an administrative suspension from Sierra Medical Center for claims of abusive conduct towards a staff member. It was also alleged that Respondent failed to seek psychological evaluation and treatment as recommended by the Medical Executive Committee, and instead resigned his privileges while under investigation.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board.

Ex. A

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. General Findings:

- a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the "Act") or the Rules of the Board.
- b. Respondent currently holds Texas Medical License No. L-9497. Respondent was originally issued this license to practice medicine in Texas on August 13, 2004. Respondent is also licensed to practice in Arizona, New Mexico, Michigan and Wisconsin.
- c. Respondent is primarily engaged in the practice of Diagnostic Radiology. Respondent is board certified by the American Board of Radiology, a member of the American Board of Medical Specialties.
- d. Respondent is 55 years of age.

2. Specific Panel Findings:

- a. Respondent was the subject of hospital administration review after a technician reported that Respondent grabbed and pinched her arm, touched her inappropriately, and had retaliated against her in the workplace. Respondent admitted pinching the technician's arm in a joking manner two years earlier. Respondent denied that there was any retaliation against the technician.
- b. Following review by a peer committee of the hospital, the review committee recommended Respondent undergo a psychological evaluation, which Respondent did not complete pending the outcome of his appeal of the peer committee's recommendation.

- c. The peer committee additionally recommended a 15-day suspension, a letter of admonition and the relinquishment of all leadership positions. No final action was taken on the recommendations by the peer committee.

3. Mitigating Factors:

- a. In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:
 - i. Respondent states that he was effectively denied an appeal process to challenge the peer committee recommendations. Respondent stated that he gave notice of his intent to leave his practice group, the notice was "accelerated" by the group and this acceleration led the hospital to automatically consider Respondent's hospital privileges concluded.
 - ii. The peer committee did not recommend the termination of Respondent's medical privileges.
 - iii. Subsequent to the events of this case, Respondent completed a boundaries course presented by Vanderbilt University.
 - iv. There was no evidence of harm or boundaries issues directly regarding any patient.
 - v. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(7) of the Act authorizes the Board to take disciplinary action against Respondent based on disciplinary action taken by Respondent's peers.

3. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public, as further defined by Board Rule 190.8(2)(P), behaving in a disruptive manner toward licensees, hospital personnel, other medical personnel, patients, family members or others that interferes with patient care or could be reasonably expected to adversely impact the quality of care rendered to a patient.

4. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.

5. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

6. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Independent Medical Evaluation. Upon entry of this Order, the Executive Director of the Board will designate a physician who is board certified in psychiatry to serve as the Board's evaluating psychiatrist. Within 60 days thereafter, Respondent shall submit to and obtain an independent medical evaluation from the evaluating psychiatrist.

(a) The independent medical evaluation shall be conducted as directed by the Board, including, at a minimum:

- (1) Social history and background information;
- (2) History of present illness;
- (3) Mental status exam;
- (4) Review of records and other pertinent information;
- (5) Current DSM multiaxial diagnosis, and

- (6) Recommendations regarding continued care and treatment.
- (b) The Compliance Division of the Board shall furnish a copy of this Order to the evaluating psychiatrist, who shall make a full report to the Compliance Division of the Board regarding the evaluating psychiatrist's evaluation of Respondent and recommendations.
- (c) Respondent shall pay all fees charged by the evaluating psychiatrist.
- (d) Respondent shall follow all recommendations made by the evaluating psychiatrist regarding continued care and treatment.
- (e) Respondent's failure to cooperate with the evaluating psychiatrist or failure to follow the evaluating psychiatrist's recommendations shall constitute a violation of this Order.
- (f) If the evaluating psychiatrist recommends continued care and treatment, the Executive Director shall notify Respondent to submit within 45 days letters from at least three physicians who are board certified in psychiatry and who agree to serve as Respondent's approved treating psychiatrist.
- (1) The letters from proposed treating psychiatrist(s) shall state that they:
- a. have been provided a copy of this Order;
 - b. agree to provide psychiatric treatment to Respondent; and
 - c. agree to provide periodic reports regarding Respondent's compliance with treatment and rehabilitation to (a) the Compliance Division of the Board or (b) an independent monitoring psychiatrist.
- (2) A proposed treating psychiatrist may not be approved unless the proposed treating psychiatrist agrees to provide periodic reports either to the Compliance Division of the Board or to an independent monitoring psychiatrist.
- (3) The Executive Director may reject all of the proposed treating psychiatrists and require the submission of additional letters or approve one or more to be the approved treating psychiatrist.
- (4) Respondent shall begin the recommended care and treatment within 30 days after notification of approval of the treating psychiatrist.
- (5) Respondent shall pay all fees charged by the treating psychiatrist.

- (6) Respondent shall follow all recommendations made by the treating psychiatrist regarding continued care and treatment.
- (7) Board staff may furnish to the treating psychiatrist any Board information that it determines, in its discretion, may be helpful or required for the treatment of Respondent.
- (8) The treating psychiatrist shall provide periodic written reports no less than quarterly, on March 15, June 15, September 15, and December 15 of each year, during Respondent's treatment, either directly to the Compliance Division of the Board or to an independent monitoring psychiatrist. Periodic reports shall include: (a) current diagnosis; (b) treatment regimen; (c) treatment compliance; (d) follow-up recommendations; and (e) prognosis. The Board or an independent monitoring psychiatrist may request clarification of periodic reports and may request additional reports.
- (9) The treating psychiatrist may require Respondent to participate in alcohol and/or drug screens and shall immediately report any positive results either directly to the Compliance Division of the Board or to an independent monitoring psychiatrist.
- (10) The treating psychiatrist shall immediately report, either directly to the Compliance Division of the Board or to an independent monitoring psychiatrist, any unilateral withdrawal from treatment by Respondent.
- (11) Respondent shall execute any and all releases for medical records and authorizations necessary to effectuate the provisions of this Order.
- (12) Respondent's failure to cooperate with the treating psychiatrist or failure to follow the treating psychiatrist's recommendations shall constitute a violation of this Order.

Monitoring Continued Care and Treatment. During any continued care and treatment, the Board shall monitor Respondent's compliance with treatment and rehabilitation, either directly through the treating psychiatrist or through an independent monitoring psychiatrist designated by the Executive Director.

- (a) If the approved treating psychiatrist agrees to provide reports directly to the Compliance Division of the Board, with the consent of Respondent, the Executive Director may authorize the treating psychiatrist to serve in the dual capacity as treating psychiatrist for Respondent and monitoring psychiatrist for the Board.
- (b) If the approved treating psychiatrist does not agree to provide periodic reports to the Compliance Division of the Board, or if Respondent does not consent, or if the Executive Director requires an independent monitoring psychiatrist, the Executive Director shall designate a physician who is board certified in psychiatry to serve as the Board's independent monitoring psychiatrist. Respondent shall pay all fees charged by an independent monitoring psychiatrist.
- (c) An independent monitoring psychiatrist may require Respondent to present for a personal interview up to twice each year during treatment.
- (d) Respondent shall authorize the treating psychiatrist to provide information necessary for monitoring by the Board, either directly to the Compliance Division of the Board or through an independent monitoring psychiatrist. The information shall be limited to the minimum information necessary to ensure adequate assessment of Respondent's compliance with treatment, rehabilitation, and compliance with the terms of this Order.
- (e) An independent monitoring psychiatrist shall provide periodic written reports to the Compliance Division of the Board no less than semi-annually, on March 15 and September 15 of each year, during Respondent's treatment. The monitoring reports shall include: (a) current diagnosis; (b) treatment regimen; (c) treatment compliance; (d) follow-up recommendations; and (e) prognosis.
- (f) Board staff may furnish to the monitoring psychiatrist any Board information that it determines, in its discretion, may be helpful or required for the effective monitoring of Respondent's compliance with treatment, rehabilitation, and compliance with this Order.
- (g) Respondent's failure to cooperate with the monitoring psychiatrist shall constitute a violation of this Order.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete the professional boundaries course offered by University of California San Diego Physician Assessment and Clinical Education (PACE) program or an equivalent course approved in advance by the Executive Director. To obtain approval for a course other than PACE courses, Respondent shall submit in writing to the Compliance Division of the Board information on the course that includes description of the course content, faculty, course location, and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course.

3. Within one year beginning from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least eight hours of continuing medical education (CME) in the topic of medical ethics. All CME hours must be approved for Category I credits by the American Medical Association, and approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall submit in writing to the Compliance Division of the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Division of the Board on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

4. Respondent shall pay an administrative penalty in the amount of \$5,000 within 60 days of the date of the entry of this Order. The administrative penalty shall be paid in a single payment by cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

5. The time period of this Order shall be extended for any period of time that: (a) Respondent subsequently practices exclusively outside the State of Texas, except as to his practice in Doan Ana County, New Mexico, which is immediately adjacent to El Paso County, Texas; (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees; (c) this Order is stayed or enjoined by Court Order; or (d) for any period of time longer than 60 consecutive days that Respondent does not actively practice medicine. If Respondent leaves Texas to practice elsewhere or ceases active practice for more than 60 consecutive days, Respondent shall immediately notify the Board in writing. Upon Respondent's return to active practice or return to practice in Texas, Respondent shall notify the Board in writing. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension or tolling.

6. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

7. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

8. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 30 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order as provided by §164.003(b)(2) of the Medical Practice Act.

9. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to

injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

10. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

11. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for one year following the date of the entry of this Order. If, after the passage of the one-year period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

[SIGNATURE PAGES TO FOLLOW]